

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

TARGET TRAINING INTERNATIONAL, LTD.,
Plaintiff-Appellant,

v.

**MICHELLE K. LEE, DEPUTY DIRECTOR, U.S.
PATENT AND TRADEMARK OFFICE, DEPUTY
UNDER SECRETARY FOR COMMERCE FOR
INTELLECTUAL PROPERTY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK
OFFICE,**
Defendant-Appellee.

2014-1488

Appeal from the United States District Court for the
Northern District of Iowa in No. 3:13-cv-03057-MWB,
Judge Mark W. Bennett.

ON MOTION

Before CHEN, *Circuit Judge.*

O R D E R

Target Training International, Ltd. moves to transfer
its appeal back to the United States Court of Appeals for

the Eighth Circuit, where it was initially docketed. The Deputy Director of the Patent and Trademark Office opposes the motion.

This appeal arises out of a complaint under the Administrative Procedure Act, alleging that the PTO acted arbitrarily and capriciously in deciding the filing date of a petition for inter partes reexamination. While the APA is not a patent law, this court nonetheless maintains jurisdiction over cases that raise a substantial question under the patent laws. See *Gunn v. Minton*, 133 S. Ct. 1059, 1064-65 (2013); *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 809 (1988).

Here, the Eighth Circuit concluded that this case raised such a question, and Target has not in the papers submitted shown that this conclusion should be disturbed.

Accordingly,

IT IS ORDERED THAT:

The motion to dismiss is denied without prejudice to raising any jurisdictional argument in the briefs.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court